

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3554

To establish an alternative diesel standard, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 21, 2006

Mr. OBAMA (for himself, Mr. COCHRAN, Mr. LUGAR, and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To establish an alternative diesel standard, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Alternative Diesel  
5       Standard Act of 2006”.

6       **SEC. 2. ALTERNATIVE DIESEL FUEL CONTENT OF DIESEL.**

7       (a) FINDINGS.—Congress finds that—

8               (1) section 211(o) of the Clean Air Act (42  
9       U.S.C. 7535(o)) (as amended by section 1501 of the  
10       Energy Policy Act of 2005 (Public Law 109–58))

1 established a renewable fuel program under which  
2 entities in the petroleum sector are required to blend  
3 renewable fuels into motor vehicle fuel based on the  
4 gasoline motor pool;

5 (2) the need for energy diversification is greater  
6 as of the date of enactment of this Act than it was  
7 only months before the date of enactment of the En-  
8 ergy Policy Act (Public Law 109–58; 119 Stat.  
9 594); and

10 (3)(A) the renewable fuel program under sec-  
11 tion 211(o) of the Clean Air Act requires a small  
12 percentage of the gasoline motor pool, totaling near-  
13 ly 140,000,000,000 gallons, to contain a renewable  
14 fuel; and

15 (B) the small percentage requirement described  
16 in subparagraph (A) does not include the  
17 40,000,000,000-gallon diesel motor pool.

18 (b) ALTERNATIVE DIESEL FUEL PROGRAM FOR DIE-  
19 SEL MOTOR POOL.—Section 211 of the Clean Air Act (42  
20 U.S.C. 7545) is amended by inserting after subsection (o)  
21 the following:

22 “(p) ALTERNATIVE DIESEL FUEL PROGRAM FOR  
23 DIESEL MOTOR POOL.—

24 “(1) DEFINITION OF ALTERNATIVE DIESEL  
25 FUEL.—

1           “(A) IN GENERAL.—In this subsection, the  
2 term ‘alternative diesel fuel’ means biodiesel (as  
3 defined in section 312(f) of the Energy Policy  
4 Act of 1992 (42 U.S.C. 13220(f))) and any  
5 blending components derived from alternative  
6 fuel (provided that only the alternative fuel por-  
7 tion of any such blending component shall be  
8 considered to be part of the applicable volume  
9 under the alternative diesel fuel program estab-  
10 lished by this subsection).

11           “(B) INCLUSIONS.—The term ‘alternative  
12 diesel fuel’ includes a diesel fuel substitute pro-  
13 duced from—

14                   “(i) animal fat;

15                   “(ii) plant oil;

16                   “(iii) recycled yellow grease;

17                   “(iv) single-cell or microbial oil;

18                   “(v) thermal depolymerization;

19                   “(vi) thermochemical conversion;

20                   “(vii) a coal-to-liquid process (includ-  
21 ing the Fischer-Tropsch process) that pro-  
22 vides for the sequestration of carbon emis-  
23 sions; or

24                   “(viii) a diesel-ethanol blend of not  
25 less than 7 percent ethanol.

1           “(2) ALTERNATIVE DIESEL FUEL PROGRAM.—

2                   “(A) REGULATIONS.—

3                           “(i) IN GENERAL.—Not later than 1  
4                           year after the date of enactment of this  
5                           subsection, the Administrator shall promul-  
6                           gate regulations to ensure that diesel sold  
7                           or introduced into commerce in the United  
8                           States (except in noncontiguous States or  
9                           territories), on an annual average basis,  
10                          contains the applicable volume of alter-  
11                          native diesel fuel determined in accordance  
12                          with subparagraph (B).

13                           “(ii) PROVISIONS OF REGULATIONS.—  
14                          Regardless of the date of promulgation,  
15                          the regulations promulgated under clause  
16                          (i)—

17                                   “(I) shall contain compliance pro-  
18                                   visions applicable to refineries, blend-  
19                                   ers, distributors, and importers, as  
20                                   appropriate, to ensure that the re-  
21                                   quirements of this paragraph are met;  
22                                   but

23                                   “(II) shall not—

1                   “(aa) restrict geographic  
2 areas in which alternative diesel  
3 fuel may be used; or

4                   “(bb) impose any per-gallon  
5 obligation for the use of alter-  
6 native diesel fuel.

7                   “(iii) REQUIREMENT IN CASE OF  
8 FAILURE TO PROMULGATE REGULA-  
9 TIONS.—If the Administrator fails to pro-  
10 mulgate regulations under clause (i), the  
11 percentage of alternative diesel fuel in the  
12 diesel motor pool sold or dispensed to con-  
13 sumers in the United States, on a volume  
14 basis, shall be 0.6 percent for calendar  
15 year 2008.

16                   “(B) APPLICABLE VOLUME.—

17                   “(i) CALENDAR YEARS 2008 THROUGH  
18 2015.—For the purpose of subparagraph  
19 (A), the applicable volume for any of cal-  
20 endar years 2008 through 2015 shall be  
21 determined in accordance with the fol-  
22 lowing table:

<b>“Applicable volume of Alternative diesel fuel in diesel motor pool (in millions of gallons):</b>	<b>Calendar year:</b>
250 .....	2008
500 .....	2009
750 .....	2010

**“Applicable volume of Alternative diesel fuel in diesel motor pool (in millions of gallons):**

**Calendar year:**

1,000 .....	2011
1,250 .....	2012
1,500 .....	2013
1,750 .....	2014
2,000 .....	2015

1                                   “(ii) CALENDAR YEAR 2016 AND  
2                                   THEREAFTER.—The applicable volume for  
3                                   calendar year 2016 and each calendar year  
4                                   thereafter shall be determined by the Ad-  
5                                   ministrators, in coordination with the Sec-  
6                                   retary of Agriculture and the Secretary of  
7                                   Energy, based on a review of the imple-  
8                                   mentation of the program during calendar  
9                                   years 2008 through 2015, including a re-  
10                                  view of—

11                                   “(I) the impact of the use of al-  
12                                   ternative diesel fuels on the environ-  
13                                   ment, air quality, energy security, job  
14                                   creation, and rural economic develop-  
15                                   ment; and

16                                   “(II) the expected annual rate of  
17                                   future production of alternative diesel  
18                                   fuels to be used as a blend component  
19                                   or replacement to the diesel motor  
20                                   pool.

1                   “(iii) MINIMUM APPLICABLE VOL-  
2                   UME.—For the purpose of subparagraph  
3                   (A), the applicable volume for calendar  
4                   year 2016 and each calendar year there-  
5                   after shall be equal to the product obtained  
6                   by multiplying—

7                                 “(I) the number of gallons of die-  
8                                 sel that the Administrator estimates  
9                                 will be sold or introduced into com-  
10                                merce during the calendar year; and

11                               “(II) the ratio that—

12   “(aa) 2,000,000,000 gallons  
13   of alternative diesel fuel; bears to

14   “(bb) the number of gallons  
15   of diesel sold or introduced into  
16   commerce during calendar year  
17   2015.

18                   “(3) APPLICABLE PERCENTAGES.—

19                                 “(A) PROVISION OF ESTIMATE OF VOL-  
20                                 UMES OF DIESEL SALES.—Not later than Octo-  
21                                 ber 31 of each of calendar years 2007 through  
22                                 2015, the Administrator of the Energy Infor-  
23                                 mation Administration shall provide to the Ad-  
24                                 ministrator an estimate, with respect to the fol-  
25                                 lowing calendar year, of the volumes of diesel

1 projected to be sold or introduced into com-  
2 merce in the United States.

3 “(B) DETERMINATION OF APPLICABLE  
4 PERCENTAGES.—

5 “(i) IN GENERAL.—Not later than  
6 November 30 of each of calendar years  
7 2008 through 2015, based on the estimate  
8 provided under subparagraph (A), the Ad-  
9 ministrator shall determine and publish in  
10 the Federal Register, with respect to the  
11 following calendar year, the alternative die-  
12 sel fuel obligation that ensures that the re-  
13 quirements of paragraph (2) are met.

14 “(ii) REQUIRED ELEMENTS.—The al-  
15 ternative diesel fuel obligation determined  
16 for a calendar year under clause (i) shall—

17 “(I) be applicable to refineries,  
18 blenders, and importers, as appro-  
19 priate;

20 “(II) be expressed in terms of a  
21 volume percentage of diesel sold or in-  
22 troduced into commerce in the United  
23 States; and

24 “(III) subject to subparagraph  
25 (C), consist of a single applicable per-

1                   centage that applies to all categories  
2                   of persons described in subclause (I).

3                   “(C) ADJUSTMENTS.—In determining the  
4                   applicable percentage for a calendar year, the  
5                   Administrator shall make adjustments to pre-  
6                   vent the imposition of redundant obligations on  
7                   any person described in subparagraph  
8                   (B)(ii)(I).

9                   “(4) CREDIT PROGRAM.—

10                   “(A) IN GENERAL.—The regulations pro-  
11                   mulgated pursuant to paragraph (2)(A) shall  
12                   provide for the generation of an appropriate  
13                   amount of credits by any person that refines,  
14                   blends, or imports diesel that contains a quan-  
15                   tity of alternative diesel fuel that is greater  
16                   than the quantity required under paragraph  
17                   (2).

18                   “(B) USE OF CREDITS.—A person that  
19                   generates a credit under subparagraph (A) may  
20                   use the credit, or transfer all or a portion of the  
21                   credit to another person, for the purpose of  
22                   complying with regulations promulgated pursu-  
23                   ant to paragraph (2).

24                   “(C) DURATION OF CREDITS.—A credit  
25                   generated under this paragraph shall be valid

1 during the 1-year period beginning on the date  
2 on which the credit is generated.

3 “(D) INABILITY TO GENERATE OR PUR-  
4 CHASE SUFFICIENT CREDITS.—The regulations  
5 promulgated pursuant to paragraph (2)(A)  
6 shall include provisions allowing any person  
7 that is unable to generate or purchase sufficient  
8 credits under subparagraph (A) to meet the re-  
9 quirements of paragraph (2) by carrying for-  
10 ward a credit generated during a previous year  
11 on the condition that the person, during the cal-  
12 endar year following the year in which the al-  
13 ternative diesel fuel deficit is created—

14 “(i) achieves compliance with the al-  
15 ternative diesel fuel requirement under  
16 paragraph (2); and

17 “(ii) generates or purchases additional  
18 credits under subparagraph (A) to offset  
19 the deficit of the previous year.

20 “(5) WAIVERS.—

21 “(A) IN GENERAL.—The Administrator, in  
22 consultation with the Secretary of Agriculture  
23 and the Secretary of Energy, may waive the re-  
24 quirements of paragraph (2) in whole or in part  
25 on receipt of a petition of 1 or more States by

1           reducing the national quantity of alternative  
2           diesel fuel for the diesel motor pool required  
3           under paragraph (2) based on a determination  
4           by the Administrator, after public notice and  
5           opportunity for comment, that—

6                   “(i) implementation of the require-  
7                   ment would severely harm the economy or  
8                   environment of a State, a region, or the  
9                   United States; or

10                   “(ii) there is an inadequate domestic  
11                   supply of alternative diesel fuel.

12                   “(B) PETITIONS FOR WAIVERS.—Not later  
13           than 90 days after the date on which the Ad-  
14           ministrators receives a petition under subpara-  
15           graph (A), the Administrator, in consultation  
16           with the Secretary of Agriculture and the Sec-  
17           retary of Energy, shall approve or disapprove  
18           the petition.

19                   “(C) TERMINATION OF WAIVERS.—

20                   “(i) IN GENERAL.—Except as pro-  
21                   vided in clause (ii), a waiver under sub-  
22                   paragraph (A) shall terminate on the date  
23                   that is 1 year after the date on which the  
24                   waiver is provided.

1                   “(ii) EXCEPTION.—The Adminis-  
2                   trator, in consultation with the Secretary  
3                   of Agriculture and the Secretary of En-  
4                   ergy, may extend a waiver under subpara-  
5                   graph (A), as the Administrator deter-  
6                   mines to be appropriate.”.

7           (c) PENALTIES AND ENFORCEMENT.—Section  
8 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is  
9 amended—

10           (1) in paragraph (1), by striking “or (o)” each  
11           place it appears and inserting “(o), or (p)”; and

12           (2) in paragraph (2), by striking “and (o)”  
13           each place it appears and inserting “(o), and (p)”.

14           (d) TECHNICAL AMENDMENTS.—Section 211 of the  
15 Clean Air Act (42 U.S.C. 7545) is amended—

16           (1) in subsection (i)(4), by striking “section  
17           324” each place it appears and inserting “section  
18           325”;

19           (2) in subsection (k)(10), by indenting subpara-  
20           graphs (E) and (F) appropriately;

21           (3) in subsection (n), by striking “section  
22           219(2)” and inserting “section 216(2)”;

23           (4) by redesignating the second subsection (r)  
24           and subsection (s) as subsections (s) and (t), respec-  
25           tively; and

1           (5) in subsection (t)(1) (as redesignated by  
2 paragraph (4)), by striking “this subtitle” and in-  
3 sserting “this part”.

○